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10/625,641	07/24/2003	Johnnie Mae Harrison	HAR 101	9042

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EXAMINER

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ART UNIT PAPER NUMBER

3728

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1,6,7,12,14,15,16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anastor (U.S. Pat. No. 2,815,755) in view of Ratcliff (U.S. Pat. No. 5,052,590).

As to claim 1,7,14,15 and 16 Anastor discloses a dual chamber container (Anastor Fig. 1) having a cylindrical body, including a first (reference number 13, left side) and second end (reference number 13, right side) directly opposite one another, a transverse divider (reference number 11) within the body dividing the body into a first (Fig. 5, reference number 12, left side) and second chamber (reference number 12, right side), and a sealable opening and closure (reference number 19) in each of the first and second chambers at the first and second ends of the body, respectively.

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Anastor does not disclose a first quantity of mouth cleansing liquid (personal care liquid) in the first chamber or a second quantity of mouth rinsing liquid (personal liquid) in the second chamber. However, Ratcliff discloses a dual chamber container (Ratcliff Fig. 2) containing mouth wash liquids (Column 2, lines 25-29) to be used to reduce dental plaque (Column 1, lines 12-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the contents of the Anastor chambers to include mouth wash liquids, as taught by Ratcliff, for the purpose of making available to a user effective compounds to prevent bacteria and decay of the mouth (Column 4, lines 21-25).

As to claims 6,12 and 19, Anastor does not disclose that the container is sealed by a screw cap. However, Ratcliff discloses that the dual chambered container can be sealed by a screw cap (Ratcliff Fig. 2) for sealing the chamber outlets/openings (Ratcliff Column 4, lines 53-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the rubber plugs sealing the chamber openings of the Anastor device with screw caps for the purpose of more securely sealing the contents of the chambers of the container.

3. Claims 2,3,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anastor (U.S. Pat. No. 2,815,755) in view of Ratcliff (U.S. Pat. No. 5,052,590) as applied to claim 1 above, and further in view of Frazier et al., (U.S. Pat. No. 4,980,152).

As to claims 2,3,8 and 9, Anastor as modified above, does not disclose that one of the mouth wash liquids is hydrogen peroxide. However, Frazier discloses a mouthwash composed of hydrogen peroxide and water to help prevent caries, plaque,

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gingivitis, periodontitis and orthodontic appliance legions (Frazier Column 1, lines 9-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the contents of the Anastor chambers to include hydrogen peroxide and water, as taught by Frazier, since both are well known as mouth washing agents that prevent bacteria build-up associated with periodontal disease (Column 1, lines 21-24).

4. Claims 4,5,10,11,13,17,18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anastor (U.S. Pat. No. 2,815,755) in view of Ratcliff (U.S. Pat. No. 5,052,590) as applied to claims 1,7 and 14 above, and further in view of Clyde et al., (U.S. Pat. No. 6,247,617).

As to claims 4,10 and 17, Anastor as modified above, does not disclose that the dual chamber container is plastic. However, Clyde discloses a single use, double chambered container (Clyde Fig. 1, reference numbers 10 and 20) that is made of a flexible polymer (e.g. a plastic). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the material of the Anastor container with plastic, as taught by Clyde, for flexibility in construction of the container, for flexibility in the types of compositions that can be contained in the chambers and easy sterilization (Clyde Column 4, lines 35-54).

As to claims 5,11 and 18, Anastor as modified above, does not disclose that the chambers are sealed by a pull-tab. However, Clyde discloses that the chambers are sealed by a pull-tab (tear-off tab) for easy grasping and single action removal from the container (Clyde Column 3, lines 64-66). Therefore, it would have been obvious to one

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of ordinary skill in the art at the time the invention was made to replace the rubber plugs sealing the chamber openings of the Anastor device as modified above with pull tabs for the purpose of more securely sealing the contents of the chambers of the container and easier single action removal.

As to claims 13 and 20, Anastor as modified above, does not disclose that the two chambers have different volumes. However, Clyde discloses that the chambered container has two different chambers with different volumes (Clyde Fig. 1, reference numbers 10 and 20) for more accurate and effective administration of the compositions in the chambers (Clyde Column 3, lines 40-43; see also Column 4, lines 4-7) .

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the chambers of the Anastor container as modified to include two chambers of different volumes, as taught by Clyde for the purpose of containing a volume appropriate for the intended application (Clyde Column 4, lines 11-13).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Preziosi (U.S. Pat. No. 4,871,091) discloses a disposable package for liquids. Herran (U.S. Pat. No. 5,287,961) discloses a plastic multi-compartmented package for storing various materials.

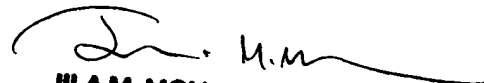
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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